

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

ANTHONY BUZBEE,

Plaintiff,

V.

**GAYLE DICKIE, JASON VAN EMAN,
JAMES ALLEN BRADLEY,
WEATHERVANE PRODUCTIONS, INC.,
FORREST CAPITAL PARTNERS, INC.,
FORREST CAPITAL & CO., LLC, FIRST
CLEARING, LLC, WELLS FARGO
BANK, N.A., WELLS FARGO ADVISORS,
LLC, AND HEY GIRL HEY
ENTERTAINMENT LLC/3WAY FILMS**

Defendants.

CIVIL NO. 4:14-cv-3431

**DEFENDANTS FORREST CAPITAL PARTNERS, INC. AND
FORREST CAPITAL AND CO., LLC'S NOTICE OF REMOVAL**

Notice is hereby given that, pursuant to 28 U.S.C. §§ 1332(a), 1441, and 1446, Defendants Forrest Capital Partners, Inc., and Forrest Capital and Co., LLC (collectively, “Forrest”) hereby remove this action from the 234th District Court of Harris County, Texas to the United States District Court for the Southern District of Texas, Houston Division.¹

THE STATE COURT ACTION

1. On October 20, 2014, Plaintiff Anthony G. Buzbee (“Buzbee”) filed Plaintiff’s Original Petition in the 234th District Court in Harris County Texas styled *Anthony G. Buzbee*

¹ Filing of this notice is not intended as an admission of personal jurisdiction, and Forrest specifically reserves its right to raise any defense related to personal jurisdiction in its first responsive pleading as provided by Federal Rule of Civil Procedure 12(b).

v. Gayle Dickie, Jason Van Eman, James Allen Bradley, Weathervane Productions, Inc., and Hey Girl Hey Entertainment LLC/3Way Films, Cause No. Cause No. 2014-60989. Buzbee alleged that the named defendants defrauded him and converted \$1.5 million related to an investment in movie. Buzbee also sought a declaratory judgment from the Harris County District Court related to a second financing agreement and a settlement agreement.

2. On November 19, 2014, Buzbee filed his *First Amended Petition and Request for Temporary Restraining Order* (the “**FAP**”). The FAP added five additional defendants: (a) Forrest Capital Partners, Inc., (b) Forrest Capital and Co., LLC, (c) First Clearing, LLC, (d) Wells Fargo Bank, N.A., (e) Wells Fargo Advisors, LLC (collectively, the “**FAP Defendants**”). However, the substantive allegations of the lawsuit were largely the same with the addition of the following allegations:

Plaintiff entered into a financing agreement with Defendants Forrest Capital Partners, Inc. and Weathervane Productions, Inc. Plaintiff wired the monies requested into an account controlled by Defendant Wells Fargo Advisors, LLC. First Clearing LLC was a named beneficiary on the account for the wired funds.

FAP, ¶ 20. Buzbee also added a request for a temporary restraining order and temporary injunction.

3. The earliest Forrest could have possibly received notice of the FAP and any claims against Forrest was November 19, 2014, the date the FAP was filed. Forrest files this notice of removal within thirty days of that date and within one year of commencement of the suit as required by statute. 28 U.S.C. §§ 1446(b)(1) & (c)(1). Therefore, this Notice of Removal is timely under 28 U.S.C. § 1446.

4. Buzbee seeks actual damages of \$1.5 million and \$5 million in punitive damages, as well as costs and attorneys’ fees.

5. Defendants Gayle Dickie, Jason Van Eman, James Allen Bradley, Weathervane Productions, Inc., Hey Girl Hey Entertainment LLC/3Way Films consent to the removal of this action. Defendants First Clearing, LLC, Wells Fargo Bank, N.A., and Wells Fargo Advisors, LLC are nominal or formal defendants because their only “role in the law suit is that of a depository or stakeholder.” *Tri-Cities Newspapers, Inc. v. Tri Cities Printing Pressmen and Assistants’ Local 349, Int’l Printing Pressmen & Assistants’ Union of N. Am.*, 427 F.2d 325, 326 (5th Cir. 1970). Therefore, First Clearing, LLC, Wells Fargo Bank, N.A., and Wells Fargo Advisors, LLC’s consent is not required for removal. *Id.*

BASIS FOR REMOVAL

6. This action is properly removed to this Court, as the State-Court action is pending within this district and division. 28 U.S.C. § 1441(a).

7. Removal is proper because there is complete diversity between the parties. 28 U.S.C. § 1332(a). Buzbee is a citizen of Texas. FAP, ¶ 1. Defendants Dickie, Bradley, Hey Girl Hey Entertainment, LLC, and Wells Fargo Bank, N.A. are citizens of California. FAP, ¶¶ 2, 3, & 9. Defendants Van Eman and Weathervane Productions, Inc. are citizens of Nevada. FAP, ¶¶ 4-5. Forrest Capital Partners, Inc. and Forrest Capital and Co LLC are citizens of Florida. FAP, ¶¶ 6-7. Defendant First Clearing and Wells Fargo Advisors, LLC are citizens of Missouri. FAP, ¶¶ 8 & 10. Additionally, the amount in controversy is at least \$1.5 million, exclusive of punitive damages, costs, interest, and fees. FAP, ¶ 40; *see* 28 U.S.C. §§ 1332(a), 1446(c)(2)(B).

8. Pursuant to Local Rule 81 and 28 U.S.C. § 1446(a), this Notice of Removal is accompanied by an *Index of Matters Filed with Notice of Removal (Exhibit A)*, which attaches a copy of the following documents:

Exhibit 1-A: A copy of the state-court docket sheet

Exhibit 1-B: *Plaintiff's Original Petition*

Exhibit 1-C: Civil Process Request for *Plaintiff's Original Petition*

Exhibit 1-D: Civil Process Pick-Up Form

Exhibit 1-E: Return of Service – *Weathervane Productions, Inc.*

Exhibit 1-F: Clerk's certificate of cash deposit in lieu of injunction bond per order of the Court

Exhibit 1-G: *Temporary Restraining Order*

Exhibit 1-H: *Plaintiffs First Amended Petition and Request for Temporary Restraining Order and Verification*

Exhibit 1-I: Civil Process Request for *Plaintiffs First Amended Petition and Request for Temporary Restraining Order*

Exhibit 1-J: *Original Answer of Defendants Wells Fargo Bank, N.A., Wells Fargo Advisors, LLC and First Clearing, LLC*

Exhibit 1-K: Return of Service – Hey Girl Hey Entertainment LLC

Exhibit 1-L: Defendants Gayle Dickie, Jason Van Eman, James Allen Bradley, Weathervane Productions, Inc., and Hey Girl Hey Entertainment LLC's Consent to Removal

Exhibit 1-M: List of Counsel of Record

9. Simultaneously with the filing of this *Notice of Removal*, Forrest is filing copies of the *Notice* in the 234th District of Harris County, Texas pursuant to 28 U.S.C. § 1446(d). Forrest, the removing party, will promptly give all parties written notice of the filing of this *Notice of Removal* as required by 28 U.S.C. § 1446(d).

JURY DEMAND

10. Buzbee demanded a jury in the state-court suit.

CONCLUSION

Removal is appropriate in this action because there is complete diversity between the parties and the amount in controversy exceeds \$75,000, as required by 28 U.S.C. § 1332(a). For these reasons, Defendants Forrest Capital Partners, Inc. and Forrest Capital and Co. LLC asks the Court to remove the suit to the United States District Court for the Southern District of Texas, Houston Division, so that this Court may assume jurisdiction over the case as provided by law.

Dated: December 1, 2014

Respectfully Submitted,

/s/ J. Maxwell Beatty
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Counsel for Defendants Forrest Capital Partners, Inc. and Forrest Capital and Co. LLC

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was served on this 1st day of December 2014 on the following by the methods indicated:

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/s/ J. Maxwell Beatty
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